



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 7, 2000

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Patsy T. Hargrove, Treasurer
Eva Clayton Committee for Congress
307 W. Franklin Street
Warrenton, NC 27589

RE: MUR 5049

Dear Ms. Hargrove:

On July 18, 2000, the Federal Election Commission found that there is reason to believe that Eva Clayton Committee for Congress (the "Committee") and you, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended (the "Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. The Commission is particularly interested in documentation, specific to Mrs. Clayton, upon which Branch Banking & Trust Co. relied when it extended the loan. Such documents could include, but are not limited to, Mrs. Clayton's personal financial statement or the loan application. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation, and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Angela Whitehead Quigley, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Darryl R. Wold
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

cc: Eva Clayton

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

MUR: 5049

RESPONDENT: Eva Clayton for Congress Committee and Patsy T. Hargrove, as treasurer

I. GENERATION OF MATTER

This matter was generated by an audit of Eva Clayton for Congress Committee ("the Committee") and Patsy T. Hargrove, as treasurer, undertaken in accordance with 2 U.S.C. § 438(b). The audit covered the period between January 1, 1997 through December 31, 1998.

I. FACTUAL AND LEGAL ANALYSIS

A. Law

A contribution is a gift, subscription, loan, advance, deposit of money, or anything of value made by a person for the purpose of influencing any election for federal office. 2 U.S.C. § 431(8)(A); 11 C.F.R. § 100.7(a)(1). The term "contribution" includes loans which are guarantees, endorsements, or any other form of security. 11 C.F.R. § 100.7(a)(1). A loan that exceeds the contribution limitation is a violation of the law at the time that the contribution is made and remains a contribution until it has been paid. 11 C.F.R. § 100.7(a)(1)(i)(B). Each endorser or guarantor of the loan is deemed to have contributed that portion of the loan for which he or she agreed to be liable in a written agreement or in proportion to the unpaid balance if no such agreement exists. 11 C.F.R. § 100.7(a)(1)(i)(C).

A person is prohibited from making contributions to any candidate and his or her authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A); 11 C.F.R. § 110.1(b)(1). No candidate or

political committee may knowingly accept any contribution that violates the contribution limitations. 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.9(a).

B. Analysis

The Commission's audit of the Committee revealed that Eva Clayton ("the Candidate") and her spouse, Theaoseus T. Clayton, obtained a \$20,000 loan from Branch Banking & Trust Co. on December 24, 1997. The Candidate's spouse was obligated for 50% of the loan. A portion of this \$20,000 was used to make a \$12,000 loan to the Committee. Because Mr. Clayton was obligated for 50% of the \$20,000 loan, he made a \$6,000 contribution to the Committee when the Candidate made the \$12,000 loan. Mr. Clayton had previously made a \$1,000 contribution to the Committee. The Interim Audit Report brought this possible excessive contribution to the attention of the Committee. In its response to the Interim Audit Report, the Committee provided a document from Branch Banking & Trust Co., dated June 21, 1999, which released Mr. Clayton as co-maker of the loan. However, at the time of the \$12,000 loan to the Committee, Mr. Clayton was still a co-maker on the \$20,000 loan.

Therefore, there is reason to believe that Eva Clayton for Congress Committee and Patsy T. Hargrove, as treasurer, accepted an excessive contribution in the form of the loan in violation of 2 U.S.C. § 441a(f).